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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/772,059	02/03/2004	Peter H. Maxson	212/552	4531
23371	7590	11/15/2006	EXAMINER	
CROCKETT & CROCKETT 24012 CALLE DE LA PLATA SUITE 400 LAGUNA HILLS, CA 92653			RAO, ANAND SHASHIKANT	
			ART UNIT	PAPER NUMBER
			2621	

DATE MAILED: 11/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/772,059

Applicant(s)

MAXSON, PETER H.

Examiner

Andy S. Rao

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 September 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments filed on 9/1/06 with respect claims 1-12 have been fully considered but they are not persuasive.

1. Claims 1, 5-8, and 12 remain rejected under 35 U.S.C. 102(b) as being anticipated by Pecorino et al., (hereinafter referred to as "Pecorino"), as in the Office Action of 6/1/06.

2. Claims 2-4, and 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pecorino et al., (hereinafter referred to as "Pecorino"), as in the Office Action of 6/1/06.

3. The Applicant presents one argument contending the Examiner's rejection of claims 1, 5-8, and 12 under 35 U.S.C. 102(b) as being anticipated by Pecorino et al., (hereinafter referred to as "Pecorino"), and one argument contending the Examiner's rejection of claims 2-4, and 9-11 under 35 U.S.C. 103(a) as being unpatentable over Pecorino et al., (hereinafter referred to as "Pecorino"), said rejections being set forth in the Office Action of 6/1/06. However, after a careful consideration of the arguments presented, the Examiner must respectfully disagree for the reasons that follow.

4. After summarizing the reference of the pending rejection (Response of 6/1/06: page 4, lines 1-22), the Applicant argues that Peccorino fails read upon "...a rigid planar panel..." as in the claims and emphasizes this point with both illustrations and a dictionary definition (Response of 6/1/06: page 5, lines 1-17; page 6, lines 1-7). However, the Examiner respectfully disagrees. If we take the Applicant's definition of rigid as a starting point ("lack of flexibility"), such a characteristic can arrived at either by composition, or by being restrained in place. For instance, *Merriam-Webster's Collegiate Dictionary, Tenth Edition, Copyright 1997 by Merriam-Webster,*

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*Incorporated*, page 1009, defines rigid as "...having the outer shape maintained by a fixed framework..." which is what Peccorino does when the cover is deployed to cover the TV (Peccorino: column 2, lines 15-28). Additionally, the Examiner notes that the claims only call the planar panel "rigid" when deployed, and not when manipulated by the attachment means or the pivoting means, which means that all the cover has to be at this stage is "planar" which Peccorino's cover clearly is. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., "rigid planar panel" as manipulated by the attachment means or the means for pivoting) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Accordingly, the Examiner maintains that the limitation is met.

Secondly, the Applicant's argue since Peccorino discloses failing to address a "rigid planar panel" as in the claims, it would not be obvious to modify the reference as in the pending rejection (Response of 9/1/06: page 6, lines 7-34; page 7, lines 1-8). The Examiner respectfully disagrees. As discussed above, the Examiner notes that the "rigid" limitation has been met, and will not be revisited here. However, the Examiner notes that since Peccorino discloses that the cover can be made of a stack of blind sections (Pecorrino: column 2, lines 35-40), one of ordinary skill in art would note that blinds themselves come in various forms with rigid components (i.e. wooden). Accordingly, given this teaching since the cover could be a stack of blind sections as opposed to a rolled cover, one of ordinary skill in the art would have sufficient motivation to use more rigid components as in the claims for greater durability.

***Conclusion***

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andy S. Rao whose telephone number is (571)-272-7337. The examiner can normally be reached on Monday-Friday 8 hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mehrdad Dastouri can be reached on (571)-272-7418. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Andy S. Rao  
Primary Examiner  
Art Unit 2621

asr  
November 8, 2006

ANDY RAO  
PRIMARY EXAMINER

